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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,952	09/03/2002	Alexander Farr	1665g1297102	4805

26496 7590 03/30/2004

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EXAMINER

CHIANG, JACK

ART UNIT	PAPER NUMBER
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2642

/b

DATE MAILED: 03/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064952

Applicant(s)

Farr et al.

Examiner

J. Chiang

Group Art Unit

2642

#10

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1-23-04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-13 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-13 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of References Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

CLAIMS

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. (US 5943627).

Regarding claim 12, Kim shows a wireless headset comprising:

An earpiece (201);

A microphone (202);

A lock switch (111-113); and

An electronic device (300 or 100) having an indentation (301);

The earpiece and microphone (201-202) fit completely within the electronic device (see fig. 1b).

Regarding claim 13, Kim shows a wireless headset comprising:

An earpiece (201);

An electronic device (300 or 100) having an indentation (301);

A microphone (202);

The earpiece and microphone (201-202) communicate seamlessly with the electronic device so as to not disturb the contour of the device (see fig. 1b).

3. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Thornton (US 6082656) in view of Kim et al..

Regarding claim 1, Thornton shows a headset comprising:

An earpiece (headset feature in 42);

A microphone (headset feature in 42);

A cord (44);

A lock switch (130); and

An electronic device (10) having an indentation (i.e. 28).

Thornton differs from the claimed invention in that the earpiece and the microphone do not fit completely within the electronic device.

Kim teaches providing the earpiece and microphone (201-202) which fit completely within the electronic device (see fig. 1b).

Hence, the concept of providing an indentation for the headset is well taught by both Thornton and Kim, it would have been obvious for one skilled in the art to modify Thornton with the indentation as taught by Kim, such that the headset is accommodated in the electronic device without disturbing the contour of the device (col. 2, lines 1-5 in Kim).

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Regarding claims 2-11, the combination of Thornton and Kim shows:

The cord (44);

The lock switch (130) holds the earpiece, the microphone and the cord (42, 44) to the device (10);

The device (10) has an internal storage space (see fig. 3) for the cord (44), and does not interfere with the functions of the device (10);

The device (10) can be a phone/two-way communicator which usually has a calendar feature, a digital device, a MP3 player (see col. 1, lines 63-65),

Regarding claim 12, Thornton shows a headset comprising:

An earpiece (headset feature in 42);

A microphone (headset feature in 42);

A lock switch (130); and

An electronic device (10) having an indentation (i.e. 28).

Thornton differs from the claimed invention in that the headset is a wired headset instead of a wireless headset.

However, it is understood that if communication can be carried out through a wire, then it can also be done by wireless. This is shown by applicant's disclosure, in which it shows both wired and wireless headsets. In other words, there is no teaching of criticality for having a wired headset over a wireless headset, or vice versa. Further, Kim also shows a wireless headset.

Hence, it would have been obvious for one skilled in the art to use a wired headset as shown by Thornton, or to modify the wired headset to have a wireless headset as taught

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by Palermo. This simply can be considered as a variation of Thornton's wired headset, because whether the headset is wired or wireless would not substantially change the operation of the headset.

Thornton further differs from the claimed invention in that the earpiece and the microphone do not fit completely within the electronic device.

However, Kim teaches providing the earpiece and microphone (201-202) which fit completely within the electronic device (see fig. 1b).

Hence, the concept of providing an indentation for the headset is well taught by both Thornton and Kim, it would have been obvious for one skilled in the art to modify Thornton with the indentation as taught by Kim, such that the headset is accommodated in the electronic device without disturbing the contour of the device (col. 2, lines 1-5 in Kim).

Regarding claim 13, Thornton shows a headset comprising:

An earpiece (headset feature in 42);

An electronic device (10) having an indentation (i.e. 28);

A microphone (headset feature in 42).

Thornton further differs from the claimed invention in that the earpiece and the microphone do not fit completely within the electronic device.

However, Kim teaches providing the earpiece and microphone (201-202) which fit completely within the electronic device (see fig. 1b).

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Hence, the concept of providing an indentation for the headset is well taught by both Thornton and Kim, it would have been obvious for one skilled in the art to modify Thornton with the indentation as taught by Kim, such that the headset is accommodated in the electronic device without disturbing the contour of the device (col. 2, lines 1-5 in Kim).

ARGUMENT

4. In response to the remarks, the 102 rejections under Thornton and Palermo have been withdrawn in view of the amendment, applicant mainly argues the fitting of the headset, this argument is answered by the rejections above, see comments above.

5. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Chiang whose telephone number is 703-305-4728. The examiner can normally be reached on Mon.-Fri. from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on 703-305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack Chiang
Primary Examiner
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